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AUG 13 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Service Rules for the 746-764 and
776-794 MHz Bands, and
Revisions to Part 27 of the
Commission's Rules

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WT Docket No. 99-168

REPLY COMMENTS OF
SOUTHERN COMMUNICATIONS SERVICES, INC.

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Dated: August 13, 1999

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SOUTHERN COMMUNICATIONS SERVICES, INC.

Southern Communications Services, Inc., d/b/a Southern LINC® ("Southern"), through its undersigned counsel, and pursuant to Section 1.415(c) of the Federal Communications Commission's rules, 47 C.F.R. § 1.415(c), hereby submits these Reply Comments in the above-captioned proceeding. The record in this proceeding strongly supports a substantial allocation of spectrum for commercial wireless services. Southern believes that the public interest is best served by making an allocation of at least 18 MHz for SMR services. Many commenters also pointed out the difficulty of combining incompatible services in the same spectrum bands. Southern agrees that it is counterproductive to attempt to combine broadcast operations with mobile or fixed services in the same bands. For this reason, if the Commission wishes to continue to experiment with an unstructured, flexible use regime similar to the Wireless Communications Service (WCS), it should do so only on a limited basis.

I. The Record Reflects Strong Support for a Substantial Commercial Wireless Allocation in the 700 MHz Band.

In its Comments, Southern supported an allocation of 18 MHz of spectrum for specialized mobile radio (SMR) services in the 700 MHz band. The American Mobile Telecommunications Association (AMTA) also agreed that this market segment requires additional spectrum.¹ Although there is a difference of opinion as to exactly how much spectrum should be allocated for commercial wireless operations, there is strong support among many commenters that a substantial part of the 700 MHz band should be devoted to wireless services.² These comments, by a representative cross-section of the commercial mobile radio industry, are further evidence of the Commission's findings that mobile communications are meeting an increasingly greater share of society's telecommunications needs.³ Most of these parties agreed as well that in order for an allocation of wireless spectrum to be meaningful, it must be allocated in substantial spectrum blocks. Some commenters recommend as much as 24 MHz be made available as a single nationwide license.⁴ Others agree with Southern that spectrum blocks should be at least 18 MHz.⁵ RTG, for example, supported awarding small geographic licenses in two paired spectrum blocks of 18 MHz.⁶ SBC Communications also recommended that each geographic area license consist of two licenses of 18 MHz each of paired spectrum.⁷

¹ AMTA Comments at 2.

² See, Comments of U.S. West, AMTA, SBC Communications, Inc., Rural Telecommunications Group (RTG); *seriatim*.

³ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, pp. 48-49, FCC 99-136, *Fourth Report* (June 24, 1999) ("*1999 Competition Report*").

⁴ U.S. West Comments at 3. Southern does not believe that devoting such a large block of spectrum to a single nationwide license is in the public interest because it effectively precludes all but the largest nationwide companies from bidding on the spectrum.

⁵ Airtouch Communications Comments at 16.

⁶ RTG Comments at 8.

⁷ SBC Comments at 2.

While the record contains strong support for a commercial wireless allocation in the 700 MHz band of at least 18 MHz, Southern believes that the Commission is well aware that certain segments of the commercial wireless market are in more dire need of spectrum than others. The Commission has recognized dispatch service as a distinct market segment within the CMRS Industry.⁸ The Commission's *1999 Competition Report* also detailed the problem of market concentration in this segment of the commercial wireless industry.⁹ The market distortion in the dispatch market, which the Commission itself has documented, can be redressed by designating 18 MHz of additional spectrum for SMR service which will provide ample spectrum for competitive providers to enter this market and reduce prices for consumers.

II. Regulatory Certainty is Critical To Successful Use of This Band

Southern agrees with the comments of Motorola and others that excessive flexibility in the spectrum allocation which the Commission makes at 700 MHz is not in the public interest.¹⁰ The Commission's Notice in this proceeding tentatively proposed to adopt flexible use provisions similar in scope to the rules adopted for the 2.3 GHz WCS under Part 27 of the Commission's rules. In Southern's view, the Commission should learn from the difficulties experienced by the WCS that when service rules are too loose or undefined, the allocation is more likely to languish unused than when rules have a clearly defined scope and purpose. As Motorola notes, one of the most important elements for successful introduction of new services to the public is the willingness of equipment manufacturers to devote sufficient resources to developing the equipment to provide the

⁸ See, *In re Applications of Pittencrieff Communications, Inc., Transferor, and Nextel Communications, Inc., Transferee, For Consent to Transfer Control of Pittencrieff Communications, Inc. and its Subsidiaries*, DA 97-2260, *Memorandum Opinion and Order*, 13 FCC Rcd 8935 ¶ 12-17 (1997).

⁹ *1999 Competition Report* at 48.

¹⁰ See, Motorola Comments at 3, PCIA Comments at 2.

new services.¹¹ As Commenters noted with regard to the 220 MHz allocation, without strong vendor support for a particular service, the potential of any new spectrum allocation can never be realized.¹²

The Commission should not underestimate the importance of regulatory certainty to this entire process. Without a clearly defined service to which the spectrum is devoted, a sufficiently large allocation of spectrum and a predictable regulatory environment, investment dollars will not flow into that particular market. The WCS and 220 MHz bands are recent examples where markets failed to materialize because too much “flexibility” and inadequate amounts of spectrum resulted in lack of interest from manufacturers and investors.¹³ Southern, therefore, agrees with Motorola’s notion that the Commission should actively manage the 700 MHz spectrum allocation to ensure that it does truly become valuable to the American public. Southern believes that the Commission can best do this by defining the services to which the various spectrum blocks will be allocated. It is Southern’s view that a substantial allocation of 18 MHz should be made specifically for the SMR service and should be subject to the rules that currently govern SMR operations under Part 90.¹⁴

Also, simply applying Part 27 rules to this spectrum would create regulatory anomalies. For example, entities which are classified as CMRS who wish to use this spectrum to provide CMRS services would be subject to different construction requirements than entities operating under either PCS, cellular or SMR rules. This would be contrary to the dictates of the 1993 Budget Act, which require the Commission to adopt similar regulatory regimes for all CMRS entities.¹⁵ From Southern’s standpoint, it makes

¹¹ See, Motorola Comments at 2.

¹² PCIA Comments at 2.

¹³ See, Comments of Motorola at 3; ArrayComm at 3; AMTA at 1-2.

¹⁴ Southern takes no position regarding allocation of the other portion of the 700 MHz band.

¹⁵ Public Law No. 103-66, § 6002(d)(3)(B), 107 Stat. 312 (1993).

most sense to allocate most of this spectrum to distinct services where a need is shown, such as the SMR service. If the Commission wishes to continue to experiment with the flexible use WCS regulatory model, it should do so only on a limited basis in the 700 MHz allocation.

III. The Commission Should Take Into Consideration the Difficulties of Sharing Among Incompatible Services in the 700 MHz Band

Numerous parties pointed out the difficulty of sharing spectrum with inherently incompatible services, such as broadcast and mobile. Southern agrees that indiscriminate sharing among inherently incompatible services imposes unnecessary costs on end users. The technical difficulties would, in Southern's opinion, hinder the development of cost-effective, highly efficient equipment for all users of such shared bands.¹⁶ Nor did any commenters identify any particular public interest benefit to be achieved by mandatory sharing of the 700 MHz band.

Although commenters obviously were divided about how the 700 MHz band should be allocated, they shared a common concern about inherent interference problems in a multi-use band. Most who support an allocation to mobile wireless services oppose sharing the band with broadcast operations.¹⁷ Broadcasters for their part were also concerned about interference problems ("lack of knowledge and information about interference in the DTV world makes it difficult for the Commission to establish the interference protection criteria for channels 60-69 analog and digital television licensees at the present time"). Comments of the Association of American's Public Television Stations at 2. Representatives of equipment manufacturers noted that the Commission's proposal to open this band to completely flexible use was unrealistic. ("CEMA believes that the

¹⁶ Motorola cites to two examples of the difficulties created by sharing of bands by different services, the land mobile sharing with TV broadcasting in the 470-512 MHz band in 11 metropolitan areas and the difficulties of the MMDS and ITFS operators that inhabit the 2.5 GHz spectrum range. Comments of Motorola at 9-11.

¹⁷ See, Comments of U.S. West, Airtouch, TCIA, RTG and SBC Communications.

Commission cannot find it in the public interest to exclude the development of [mobile media broadcast service] through the application of generic Part 27 Rules that would open this spectrum to a variety of incompatible uses”) CEMA Comments at iii. TIA, the principle industry association representing manufacturers and suppliers of telecommunications products and equipment noted “unbridled spectrum flexibility leads to fractured markets, increased equipment costs, delayed research, product development and time to market, and increased potential for interference among users.” TIA Comments at 2. Southern agrees with the theme struck by most of the commenters that the Commission cannot shrink from its responsibility to actively manage this spectrum by dedicating distinct portions of it for compatible uses.

IV. Service Rules Should Optimize the Use of the Spectrum for Specific Purposes

As is obvious from the diversity of comments in this proceeding, certain uses of the spectrum require certain types of service rules and channel plans. Parties supporting dedication of a portion of the spectrum for commercial wireless service favor the Commission adopting specific channel plans, the use of paired frequencies and division of the country into specific geographic markets.¹⁸ Broadcasters, on the other hand, have different needs than mobile users. For example, AMST points out that “broadband video generally requires at least six MHz of a continuous, unpaired spectrum, particularly because of the installed basic receivers (both digital and analog are designed for 6 MHz signals). AMST Comments at 4. Commenters supporting use of the allocation for wireless local loop services urge that the Commission make the spectrum available on an

¹⁸ See, Comments of AMTA at 2 (supporting assignment of six MHz paired of the 746-764 MHz in the 776-794 MHz band to specialized commercial wireless systems on an economic area basis). Comments of RTG at 5, 8 (suggesting paired 900 MHz block allocation on an RSA/MSA basis. Comments of SBC Communications at 2-3 (recommending the allocation of two licenses of 18 MHz paired spectrum based on cellular market areas). Airtouch Comments at 18-20 (recommending two 18 MHz blocks paired using regional economic area groupings). Comments of U.S. West at 6 (proposing a 24 MHz nationwide assignment and a 12 MHz regional assignment based on a paired channel plan using major economic areas.

unpaired basis. Comments of ArrayComm at 5. These different points of view lead inescapably to the conclusion that rules for various allocations should be consistent with the primary use to which that spectrum is to be dedicated.

Southern strongly believes that 18 MHz of this spectrum should be dedicated for dispatch-oriented SMR service. This would require a paired channel plan, and Southern supports the adoption of a paired channel plan for SMR wireless operations. While there was no consensus expressed on the size of the geographic market in which the spectrum should be assigned, Southern agrees with the Comments of AMTA that the Economic Area concept that has been used by the Commission in connection with the auctioning of 800 MHz spectrum is the most useful geographic subdivision.¹⁹ It is not as unwieldy as the MTA/BTA plan used in the PCS auction, which requires bidders to purchase unusually large geographic areas. The EA-based configuration allows entities interested in serving smaller communities the opportunity to buy a reasonable size market to serve a specific community. It also allows entities wishing to serve larger geographic areas to buy multiple EAs, thereby acquiring larger geographic areas more consistent with their business plans.

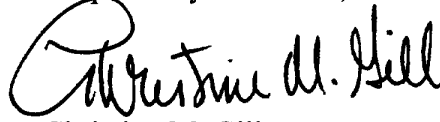
V. Conclusion

Southern recommends that the Commission allocate 18 MHz of paired spectrum for SMR services in the 700 MHz band. The Commission should adopt service rules consistent with the current Part 90 Rules for this service. Southern takes no position on how the remaining 18 MHz of spectrum should be allocated, but agrees strongly with most of the commenters in this proceeding that trying to adopt a completely flexible assignment procedure for the 700 MHz band is inefficient and will result in added costs and delays for service providers and consumers. Therefore, Southern believes that the Commission should adopt an allocation plan that devotes spectrum to compatible uses.

¹⁹ AMTA Comments at 8.

WHEREFORE, THE PREMISES CONSIDERED, Southern respectfully requests the Commission to act in accordance with the Comments herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christine M. Gill". The signature is fluid and cursive, with the first name being the most prominent.

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Dated: August 13, 1999

CERTIFICATE OF SERVICE

I, Jane Aguilard, do hereby certify that on this 13th day of August, 1999, a copy of the foregoing "Reply Comments of Southern Communications Services, Inc." was served by hand on each of the following:

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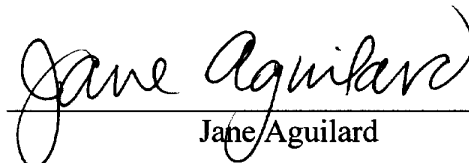
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